IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No.40 of 2004

G.B. Pant University of Agriculture & Technology,
Pant Nagar, District Udham Singh Nagar,
Through Vice Chancellor

..... **Appellant**

Versus

Saurabh Kandari, S/o Late Mahavir Singh Kandari
R/o 19, New Cantt Road, Hathi Barkala,
District Dehradun

..... **Respondents**

Mr. Rajendra Dobhal, Advocate for the appellant
Mr. Sobhit Saharia, Advocate for the respondent

Coram: Hon. Rajeev Gupta, C.J.
Hon. P.C. Verma, J.

Per Hon'ble P.C. Verma, J.

1. This Special Appeal is filed against the judgment and order dated 16.08.2004 passed by learned Single Judge in Writ Petition No.388 of 2004 (M/S). The appellant is the respondent in the writ petition. The respondent herein is the petitioner in the writ petition.

2. Brief facts of the case giving rise to this special appeal are that the respondent/petitioner was admitted in I semester of Bachelor of Technology (Civil Engineering) in G.B. Pant University of Agriculture and Technology (appellant herein) during the academic year 2002-2003. At the end of the first semester of the first year, the respondent attained Grade Point Average (GPA) only 4.946 out of 10.000. As per Regulation 42 of Chapter III of the Academic Regulations of the University(appellant), if at the end of any semester of an academic year the Cumulative Grade Point Average (CGPA) (GPA in the case of first year students at the end of first

semester of their study) of an undergraduate student falls below 6.000, he shall be placed on Academic Probation for the duration of the following semester. In view of the provisions contained in Regulation 42, the respondent was placed on Academic Probation for the duration of the second semester of the first year. At the end of the second semester of the first year, the respondent attained the CGPA of only 4.978 out of 10.000. As per Regulation 44 of Chapter III of Academic Regulations of the University, if any undergraduate student fails to attain the CGPA of 6.000 out of 10.000 at the end of the academic year, he shall be dropped from the University for poor academic performance with the right to petition for readmission. However, it is further provided in Regulation 44 that if any undergraduate student fails to attain the CGPA of 5.000 out of 10.000 at the end of the first academic year, he shall be finally dropped from the University with no right to petition for readmission. According to the case of the petitioner during the II semester, he became ill in the final examination as a result of which he could not secure satisfactory marks in Mathematics II paper and as such he was kept on academic probation during the II semester due to less marks in I semester in mathematics. In view of the above provisions contained in Regulation 44, the respondent who attained only the CGPA of 4.962 out of 10.000 at the end of the first academic year, was finally dropped by the University with no right to petition for readmission. Consequently, the respondent's name was struck off from the rolls of the University.

3. In the above mentioned circumstances, the respondent filed the writ petition praying for quashing the endorsement made in the marksheet of the petitioner of the academic year 2002-2003 dropping the petitioner from the University on the ground of poor academic performance. He

also prayed for a direction to the respondents to admit the petitioner in the third semester. The prayers in the writ petition were opposed by the University by filing a counter affidavit. Having heard the learned counsel for the parties and having considered the pleadings in the case and the Academic Regulations, the learned Single Judge sent back the petition to the Vice Chancellor for exercising his powers in accordance with the Regulations in the interest of a candidate and not to penalise him from building his career. Aggrieved by the judgment of the learned Single Judge, the respondent (University) in the writ petition has filed this special appeal.

4 We have already referred to the provisions contained in Regulations 42 and 44 of the Academic Regulations. Those regulations are extracted hereunder:

> **"Academic Probation:**
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> *42. If at the end of any semester of an academic year the CGPA (GPA in case of 1 year student at the end of I semester of their study) of an under-graduate student falls below 6.000 he shall be placed on academic probation for the duration of the following semester."*

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> **"<u>Dropping from the University</u>**
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> *44. (a) If any Under-graduate student fails to attain CGPA of 6.000 out of 10.000 at the end of academic year he shall be dropped from the University for poor academic performance with the right to petition for the readmission. The following categories of the first-degree students shall, however, be finally dropped from the University with no right to petition for readmission,*
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> *(I) If any Under-graduate student fails to attain a CGPA of 5.000 out of 10.000 at the end of the first academic year. In case a student has been permitted to drop I or II semester of his I academic year, his CGPA at the end of first two semesters of his stay in the University will be counted for this purpose.*
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> *(II) If any undergraduate student fails to attain CGPA of 5.000 in the second year onwards.*

(b) Any under-graduate student failing in the same course thrice shall be dropped from the University. In exceptional circumstances, however, the Vice Chancellor may permit a fourth chance on the recommendation of the Advisor and Dean concerned.

(c) No under-graduate student shall register again a course, which he / she has already cleared with a passing grade. If he / she registers again a course already passed, subsequent grade shall be ignored."

It is clear from the provisions contained in Regulations 42 and 44 that since the writ petitioner attained the CGPA of only less than 5.000 out of 10.000 at the end of the first academic year, he was liable to be finally dropped from the University with no right to petition for readmission. Therefore, the action of the University in finally dropping the writ petitioner from the University with no right to petition for readmission and in striking off his name from the rolls of the University was strictly in accordance with the provisions contained in the Academic Regulations of the University and hence fully justified. Regulation 40 of the Academic Regulations provides that students who withdraw from the University or who have been dropped by the University may petition to the Vice Chancellor for readmission. The relevant portion of Regulation 40 is extracted hereunder:

"Readmission of Students:

40. Students who withdraw from the University or who have been dropped by the University may petition to the Vice Chancellor for readmission. However, on readmission such students shall be treated as continuing students. As far as time of admission is concerned they shall not be treated as continuing students for the purpose of fees payable."

The provisions contained in Regulation 40 have to be read along with the provisions contained in Regulation 44. According to Regulation 44 there are two types of dropping from the University. The first is 'dropping with right to petition

for readmission' and the second is 'dropping with no right to petition for readmission'. The provisions contained in Regulation 40 are applicable only to the first category of dropping. In other words, only an undergraduate student who attained the CGPA of atleast 5.000 out of 10.000 but failed to attain the required CGPA of 6.000 out of 10.000 at the end of the first academic year and was dropped from the University with the right to petition for the readmission as per Regulation 44, is entitled to petition to the Vice Chancellor for readmission under Regulation 40. However an undergraduate student who failed even to attain the CGPA of 5.000 out of 10.000 and was dropped from the University with no right to petition for readmission, is not entitled to petition to the Vice Chancellor for readmission under Regulation 40. Therefore, the writ petitioner is not entitled to petition to the Vice Chancellor for readmission under Regulation 40. In such circumstances, the learned Single Judge clearly erred in holding that the writ petitioner is entitled for readmission and in directing the Vice Chancellor for exercising his powers in accordance with the Regulations.

6. Confronted with the above legal position, Mr. Sobhit Saharia, learned counsel for the respondent submitted that if the judgment of the learned Single Judge is set aside, the respondent will have to discontinue the course forever. Learned counsel pleaded for sympathy and compassion. The Hon'ble Supreme Court has time and again held that in academic matters, Courts should not be swayed by sympathy or compassion and should not direct the academic bodies or University authorities to ignore or violate the provisions contained in the rules and regulations governing academic matters. We also are of the view that such directions by Courts to ignore or violate the rules and regulations governing academic matters will result in fall of the standard of education

and increase of indiscipline in the educational institutions and that it will not be in public interest. Even out of sympathy or compassion, the jurisdiction under Article 226 of the Constitution of India cannot be exercised against public interest. The power under Article 226 is a weapon to be used in aid of and for the protection of public interest. We are firmly of the view that in academic matters, the authorities of the Universities and educational institutions must be left free to strictly and uniformly enforce the rules and regulations in order to maintain high standard of education and proper discipline. Any interference by Courts swayed by sympathy or compassion will only create chaos and confusion in the educational field. Hence, even if the petitioner will have to discontinue the course forever, the impugned judgment is liable to be set aside.

7. For the reasons stated above, the special appeal is allowed. The impugned judgment dated 16.08.2004 is set aside. The writ petition will stand dismissed. There will be no order as to costs.

(P.C. Verma, J.)
07.02.2006

(Rajeev Gupta, C.J.)
07.02.2006

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